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SENATE

{ REPORT
No. 91-1056

ALBERT E. JAMESON, JR.

JULY 30, 1970.—Ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 5337]

The Committee on the Judiciary, to which was referred the bill (H.R. 5337) for the relief of the late Albert E. Jameson, Jr., having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to entitle Albert E. Jameson, Jr. to disability insurance benefits under section 223 of the Social Security Act (and to a period of disability under section 216(i) of such act), the said Albert E. Jameson shall be deemed to have filed application for such benefits as required by section 223(a)(1)(C) of such act (and for the establishment of a period of disability as required by section 216(i)(2)(B) of such act) immediately before his death on November 1, 1964.

STATEMENT

The proposed legislation passed the House of Representatives June 17, 1969. The Department of Health, Education, and Welfare, the administrative agency most directly affected, is in favor of enactment of this legislation. The facts of the case as stated in the accompanying House Report No. 91-299 are as follows:

The Department of Health, Education, and Welfare, in a report dated August 19, 1968 on a previous bill, stated that it did not oppose enactment of the bill. The report of the De-

partment of Health, Education, and Welfare states that the enactment of the bill would permit the consideration of the claim which involves the right of the widow of Mr. Jameson to receive 4 months' retroactive benefits on the basis of the disability of her deceased husband. The problem in this case is that an application for disability benefits was not actually filed before Mr. Jameson's death. The bill would have the effect of waiving this requirement. The memorandum accompanying the report of the Department of Health, Education, and Welfare states:

"Before the death of Albert E. Jameson, Jr. (which occurred on November 1, 1964) Mrs. Jameson telephoned the Roxbury, Mass., Social Security district office about the possibility of claiming disability insurance benefits for him. The specific date of the telephone inquiry cannot be established, but it occurred during October 1964. Mrs. Johnson apparently could not go on to the Social Security office to file an application on behalf of her husband. Under the Social Security Administration procedures effective at that time, in such situations a representative of the Social Security office would go to the disabled worker as soon as practicable to obtain the required application. In this instance, there was some delay in making a visit to the disabled worker's home, and the application for disability insurance benefits was not obtained before Mr. Jameson's death. (Social Security regulations in effect since November 10, 1964, permit the filing of a prescribed application form on behalf of a deceased individual, provided that the deceased individual or a proper person on his behalf filed with the Social Security Administration prior to his death, a signed written statement indicating an intent to claim benefits.)"

Mrs. Jameson attempted to assert a claim to the disability benefits by filing an application on January 11, 1966; however, since that application was not filed while the disabled worker was alive, the claim for benefits had to be denied. This action was reconsidered and the denial was affirmed on May 19, 1966. As has been noted, the bill, H.R. 5337, would remedy this defect with the result that disability insurance benefits could be paid on Mr. Jameson's behalf to his widow. If it is acknowledged that Mr. Jameson met the definition of disability contained in the social security law from December 8, 1963, which is the date he stopped work, as stated by Mrs. Jameson, until his death, 4 months of benefits would be payable to Mr. Jameson. The memorandum of the Department states that, under applicable law, benefits payable to a disabled insured worker cannot begin until the worker has been disabled throughout a waiting period of 6 full calendar months; therefore, the first month's benefit is paid for the seventh full calendar month of disability. As a result, the 4 months for which benefits could be paid would be July through October of 1964.

The memorandum accompanying the departmental report also points out that, assuming that the duration of the dis-

ability is as stated by Mrs. Jameson, the bill would permit the establishment of a "disability freeze" with respect to Mr. Jameson's social security earnings record. Under the disability freeze, the period of time during which Mr. Jameson met the social security definition of disability would be excluded in computing his average monthly earnings on which the amount of any survivor's benefits that might be payable later would be based. The Department noted that in view of the relatively short duration of the period of disability, a disability freeze would have no significant effect in this instance.

The report of the Department of Health, Education, and Welfare states that as a general proposition, special legislation involving the application of social security law as in this instance is viewed as undesirable and ordinarily the Department would recommend against enactment of a private bill. In this connection the committee would note that the rules of Subcommittee No. 2, the Claims Subcommittee, bar the consideration of such bills unless adequate basis is shown for a waiver of the rule. It has been concluded in this instance that the facts outlined in the departmental report justify the consideration of this matter and, in this connection, the departmental report stated facts which show that actual notice was given to the Social Security Administration of the existence of disability prior to Mr. Jameson's death. The committee feels that the following quotation from the departmental report outlines the basis for legislative relief in this instance and reflects the equities which justify an exception in this case:

"However, it is clear that the Social Security Administration was informally notified by Mrs. Jameson, prior to her husband's death, of an intention to file the required application, and that extremely unusual circumstances in this case prevented the timely filing of the application. In addition, social security regulations in effect since November 10, 1964, permit the filing of a valid application on behalf of a deceased individual provided that the deceased person or a proper person on his behalf has filed with the Social Security Administration prior to his death a signed, written statement requesting benefits. If this regulation had been in effect in October 1964, prior to Mr. Jameson's death on November 1, 1964, it is reasonable to assume that Mrs. Jameson would have filed the written statement and that the benefits payable under H.R. 10450 would have been paid."

In agreement with the views of both the House of Representatives and the Department of Health, Education, and Welfare, the committee recommends the proposed legislation favorably.

Attached hereto and made a part hereof is the persuasive aforementioned report of the Department of Health, Education, and Welfare.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, August 19, 1968.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
 House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of June 7, 1967, for a report on H.R. 10450, a bill for the relief of the late Albert E. Jameson, Jr.

The bill provides that the late Albert E. Jameson, Jr., be deemed to have filed, prior to his death on November 1, 1964, an application for social security disability benefits. Based on the time of onset of Mr. Jameson's disability as stated by Mrs. Jameson, enactment of this bill would enable her to receive 4 months' retroactive benefits on the basis of her deceased husband's disability. The facts upon which this private relief bill is based are stated in the accompanying memorandum.

The enactment of H.R. 10450 would make inapplicable in this instance a generally applicable requirement of present law—namely that an application for disability benefits must be filed before the death of the disabled worker. We believe that special legislation of this kind is generally undesirable, and would ordinarily recommend against the enactment of a bill of this kind. However, it is clear that the Social Security Administration was informally notified by Mrs. Jameson, prior to her husband's death, of an intention to file the required application, and that extremely unusual circumstances in this case prevented the timely filing of the application. In addition, social security regulations in effect since November 10, 1964, permit the filing of a valid application on behalf of a deceased individual provided that the deceased person or a proper person on his behalf has filed with the Social Security Administration prior to his death a signed, written statement requesting benefits. If this regulation had been in effect in October 1964, prior to Mr. Jameson's death on November 1, 1964, it is reasonable to assume that Mrs. Jameson would have filed the written statement and that the benefits payable under H.R. 10450 would have been paid.

In view of this, we would not oppose the enactment of H.R. 10450.

We are advised by the Bureau of the Budget that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN, *Secretary.*

MEMORANDUM TO ACCOMPANY THE REPORT OF THE DEPARTMENT
 OF HEALTH, EDUCATION, AND WELFARE

As a condition for entitlement to social security disability insurance benefits, the law requires that an application for the benefits must be filed by or on behalf of the disabled worker while he is alive.

Before the death of Albert E. Jameson, Jr. (which occurred on November 1, 1964), Mrs. Jameson telephoned the Roxbury, Mass., social security district office about the pos-

sibility of claiming disability insurance benefits for him. The specific date of the telephone inquiry cannot be established, but it occurred during October 1964. Mrs. Jameson apparently could not go to the social security office to file an application on behalf of her husband. Under the Social Security Administration procedures effective at that time, in such situations a representative of the social security office would go to the disabled worker as soon as practicable to obtain the required application. In this instance, there was some delay in making a visit to the disabled worker's home, and the application for disability insurance benefits was not obtained before Mr. Jameson's death. (Social security regulations in effect since November 10, 1964, permit the filing of a prescribed application form on behalf of a deceased individual, provided that the deceased individual or a proper person on his behalf filed with the Social Security Administration prior to his death, a signed written statement indicating an intent to claim benefits.)

On January 11, 1966, Mrs. Jameson filed a disability application on behalf of her deceased husband. However, since the application was not filed while the disabled worker was alive, the claim for benefits had to be denied. A reconsideration of the claim was requested, and on May 19, 1966, the denial was affirmed.

Under H.R. 10450, Mr. Jameson would be deemed to have filed an application for disability insurance benefits prior to his death, and as a result disability insurance benefits could be paid on his behalf to Mrs. Jameson. Assuming that Mr. Jameson met the definition of disability in the law from December 8, 1963 (the date he stopped work as stated by Mrs. Jameson), until his death, 4 months of benefits (July through October 1964) would be payable to Mrs. Jameson. (Under the law, benefits payable to a disabled insured worker cannot begin until after the worker has been disabled throughout a waiting period of 6 full calendar months. The first month's benefits is for the seventh full calendar month of disability.)

The enactment of H.R. 10450 would also permit (assuming that the duration of disability is as stated by Mrs. Jameson) the establishment of a "disability freeze" in respect to Mr. Jameson's social security earnings record. Under the disability freeze, the period of time during which Mr. Jameson met the social security definition of disability would be excluded in computing his average monthly earnings, on which the amount of any survivors benefits that might be payable later on would be based. However, in view of the relatively short duration of the period of disability, a disability freeze would have no significant effect in this instance.

In view of the facts outlined in this report and in the report and memorandum of the Department of Health, Education, and Welfare, the committee has concluded that this is a proper subject for legislative relief and accordingly recommends that the bill be considered favorably.







